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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

16 AT&T Corp.

17 v.
18 **PLAINTIFF,**

19 Dataway, Inc.

20 DEFENDANT.

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22 **CASE NO. : C07-02440 MMC**

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27 **DECLARATION IN SUPPORT OF
MOTION TO SET ASIDE ENTRY OF
DEFAULT**

Date: Friday, October 12, 2007
Time: 9 a.m.
Courtroom: No. 7

Judge: Honorable Judge Maxine M. Chesney

28 I, SIMON LEWIS Agent for Service of Process for Defendant Dataway, Inc, declare:

1 1. I, SIMON LEWIS, am the Agent for Service of Process for
2 Defendant Dataway, Inc.

3 2. I, SIMON LEWIS, am Co-President of Defendant
4 Dataway, Inc, and as such I am one of only two officers.

5 3. After July 24, 2006, I, SIMON LEWIS, spoke with AT&T
6 technical team in New Jersey and was assured that it would waive the charges for the
7 fraudulent calls once Dataway disputed them because "they were very familiar with this
8 kind of phone hacking and advised at the time of the illegal calls that this was epidemic,
9 that they could easily see this pattern of illegal usage and that these charges would be
10 waived.". Subsequently, the request to waive the disputed calls was submitted by
11 Dataway, Inc. yet in multiple additional correspondence AT&T sent Past Due Reminders
12 and a notice to disconnect for Dataway's Account.

13 4. Prior to November 1, 2006, Francisco Molieri, Dataway, Inc.'s
14 Accountant, on my instructions, contacted and informed AT&T as well as AT&T's local
15 managers, and four administrative authorities amongst them F.C.C. and C.P.U.C..
16 Further, Dataway submitted to AT&T its Fraud Resolution form with supporting
17 documentation. On January 17, 2007 AT&T was served by F.C.C. with Dataway's
18 informal complaint. In January, 2007 Dataway was notified that its case had been
19 referred to C.P.U.C..

20 5. From prior to July 10th through July 14th, 2007 I, SIMON LEWIS,
21 was out of the state on business and the only other officer of Dataway, Inc., Eoghan
22 O'Neill broke his foot, requiring surgery and thus was not in the office.

23 6. On July 11, 2007 Francisco Molieri, Dataway, Inc.'s Accountant,
24 a position which is not an officer of Dataway, Inc., when Simon Lewis was out of the
25 state, was called out to the reception area in the early afternoon. Mr. Molieri, the
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